

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

IN RE TREASURY SECURITIES AUCTION
ANTITRUST LITIGATION

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: 1:15-MD-0673-PGG
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: Hon. Paul G. Gardephe
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**ROCK CAPITAL MARKET LLC’S MEMORANDUM IN SUPPORT OF
THE APPOINTMENT OF SCOTT+SCOTT, KOREIN TILLERY
AND KELLOGG HUBER, AS CO-LEAD CLASS COUNSEL**

Plaintiff Rock Capital Markets, LLC (“Rock Capital”), by its law firm, Cafferty Clobes Meriwether & Sprengel LLP (“CCMS”), respectfully requests that the Court appoint Scott+Scott, Attorneys at Law, LLP (Scott+Scott), Korein Tillery, LLC (“KT”), and Kellogg, Huber, Hansen, Todd, Evans & Figel, P.L.L.C. (“Kellogg”) as Co-Lead Counsel.

Rock Capital is a Chicago-based trading fund that traded large quantities of Chicago Mercantile Exchange (“CME”) 2-, 5-, 10- and 30-year Treasury futures and options during the relevant period. Rock Capital seeks an active role in this litigation to protect the interests of CME traded Treasury instruments.¹ Towards that end, its chosen counsel, CCMS, will seek a position on the Steering Committee ultimately to be appointed by the Court to represent the interests of Class members who transacted in exchange-traded futures and options.

CCMS brings a unique perspective to this case. For decades, its attorneys have represented trading firms pursuing claims under the Commodity Exchange Act (“CEA”) and federal antitrust

¹ CCMS represents other class members as well, including multiple existing firm clients who are active trading firms in the Treasury futures and options markets involved in this litigation.

laws and, unlike others, it has previously litigated multiple Treasury market matters. In addition, its attorneys routinely represent trading firms who are plaintiffs or defendants in federal litigation and regulatory proceedings involving trading environments and alleged manipulation.

For example, CCMS served as class counsel and worked closely with lead counsel² in a 10-year Treasury note manipulation case, *Hershey/Kohen v. Pacific Investment Management Co. LLC*, No. 05 C 4681 (N.D. Ill.), which resulted in a favorable class certification ruling that was upheld on appeal, 571 F.3d 672 (7th Cir. 2009), and that ultimately led to a \$118 million settlement for the class of CME Treasury futures traders. CCMS is highly familiar with the inner workings of the when-issued, auction, secondary, repurchase agreement (“repo”), exchange and over-the-counter components of the Treasury market, as well as critical concepts concerning on-the-run and cheapest-to-deliver bonds that factor into econometric analysis of the Treasury market. More recently, Judge Koeltl appointed CCMS as co-lead counsel in a natural gas market case arising under the CEA and federal antitrust laws. *See Anastasio v. Total Gas & Power North America, Inc.*, No. 1:15-cv-09689-JGK, Order Appointing Co-Lead Counsel, Dkt. No. 55 (Apr. 25, 2016).³ Despite its extensive experience, as noted, CCMS has opted not to vie for a lead-counsel position in this case, but instead has chosen to support Scott+Scott, KT and Kellogg for appointment as co-lead counsel. CCMS respectfully submits that this group is the best suited among the applicants to serve as co-lead counsel in this case for two main reasons.

First, the “work counsel has done in identifying or investigating potential claims in the action,” Fed. R. Civ. P. 23(g)(1)(A), is arguably the single most important factor when multiple

² The court appointed Lovell Stewart Halebian LLP as lead counsel, and CCMS worked closely with that firm throughout the litigation.

³ Judge Koeltl also appointed Kirby McInerney LLP, Robbins Kaplan LLP and Cohen Milstein Sellers & Toll PLLC as co-lead counsel.

qualified firms are vying to become lead counsel. Here, Scott+Scott, KT and Kellogg were the first to identify the importance of cumulative size of indirect bids in the Treasury auctions and the role that certain high frequency trading firms (“HFTs”) and other proprietary trading firms had in the conspiracy in particular and in the futures and secondary components of the Treasury market generally. CCMS’s experience has shown that litigating Treasury market cases requires a total connectivity to Treasury market circumstances, including all of its innovations, technological advances, order types and participant composition. Scott+Scott, KT and Kellogg have uniquely demonstrated this connectivity.

Second, “counsel’s experience in handling class actions, other complex litigation, and the types of claims asserted in this action,” Fed. R. Civ. P. 23(g)(1)(A)(ii), is another critical factor.⁴ Very few firms have, like CCMS, have handled multiple Treasury market matters arising under the CEA or federal antitrust laws. Scott+Scott, KT and Kellogg, however, have led similar financial market cases with a great deal of success. For example, Scott+Scott is co-leading the *In re Foreign Exchange Benchmark Rates Antitrust Litigation* and has already achieved settlements exceeding \$2 billion dollars with many banks who are also defendants in this matter. *See In re Foreign Exchange Benchmark Rates Antitrust Litigation*, No. 1:13-cv-07798-LGS, Memorandum of Law in Support of Class Plaintiffs’ Motion for Approval of the Form and Manner of Notice of Settlements and Preliminarily Approving the Plan of Distribution, Dkt. No. 654 (Aug. 31 2016). This achievement in a financial market case arising under the CEA and federal antitrust laws against many of the same defendants speaks loudly in favor of Scott+Scott, KT and Kellogg serving as co-lead counsel in this matter.

⁴ The other pertinent factors, “counsel’s knowledge of the applicable law” and “the resources that counsel will commit to representing the class,” Fed. R. Civ. P. 23(g)(1)(A)(iii)-(iv), are likely to be similar across all competing firms.

For the foregoing reasons, CCMS, having litigated many financial markets manipulation cases and handled multiple Treasury market matters, respectfully submits that Scott+Scott, KT and Kellogg should be appointed as co-lead counsel in this matter.

Dated: September 2, 2016

s/ Anthony F. Fata
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Certificate of Service

I hereby certify that on September 2, 2016, I caused a copy of the foregoing to be served via electronic mail on all parties registered for CM/ECF in the above-captioned matter.

s/Anthony F. Fata
Anthony F. Fata